

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA	§	
	§	CRIMINAL NO. 4:06CR249
v.	§	
	§	
DAIMINIC DEON HARPER	§	

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on August 17, 2010 to determine whether the Defendant violated his supervised release. The Defendant was represented by Frank Henderson. The Government was represented by Mandy Griffith.

On April 12, 2007, the Defendant was sentenced by the Honorable Richard A. Schell, United States District Judge, to a sentence of 15 months imprisonment followed by a 3-year term of supervised release for the offense of felon in possession of ammunition. Defendant began his term of supervision on October 10, 2008.

On March 22, 2010, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender under Supervision (Dkt. 35). The petition asserts that Defendant violated the following

conditions of supervision: (1) Defendant shall not commit another federal, state, or local crime; (2) Defendant shall not illegally possess a controlled substance; (3) Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician; (4) Defendant shall refrain from any unlawful use of a controlled substance; (5) Defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer; (6) Defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training or other acceptable reasons.

The petition alleges that Defendant committed the following violations: (1) On February 3, 2010, Defendant was arrested by the Sherman, Texas Police Department and charge with being in possession of a controlled substance – cocaine, the charge was pending at the time of the filing of the petition, and Defendant is being held in custody on a Texas State Parole violation warrant; (2) on March 3 and October 2, 2009 and January 8, 2010, Defendant submitted a urine specimen that tested positive for marijuana; (3) on January 19, 2010, Defendant submitted a urine specimen that tested positive for cocaine and marijuana; (4) Defendant admitted to using marijuana prior to submitting the specimen for testing on October 2, 2009, and all other urine specimens have been confirmed by Kroll Laboratory; (5) on February 3, 2010, Defendant was arrested and charged with possession of a controlled substance along with Deerick Laron Heart who was present in the vehicle, Defendant claims the cocaine belong to Heart and that he know Heart had it in his possession prior

to being pulled over; and (6) Defendant failed to work regularly at a lawful occupation for the months of September, October, November, and December 2009 and January and February 2010.

At the hearing, Defendant entered a plea of true to the alleged violations. The Court finds that Defendant has violated the terms of his supervised release and that his supervised release should be revoked. Defendant waived his right to allocute before the district judge and his right to object to the report and recommendation of this Court.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984 and having considered the arguments presented at the hearing, the Court recommends that the Defendant be committed to of the Bureau of Prisons to be imprisoned for a term of 13 months, to be served consecutively to any other time served, with no supervised release to follow.

SIGNED this 24th day of August, 2010.



DON D. BUSH
UNITED STATES MAGISTRATE JUDGE